UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/24/Add.2
10 August 1994

ENGLISH
Original: FRENCH

COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

MOROCCO

[29 July 1994]

CONTENTS

	Paragraphs	Page
Introduction	1 - 2	3
I. Information of a general nature	3 - 24	3
A. Constitutional provisions	3 - 5	3
B. International conventions and treaties	6	3
C. The authorities concerned	7 - 10	4
D. Disciplinary measures and measures to increase awareness	11 - 24	4
II. Information relating to articles 2 to 16 of the Convention	25 - 79	8
Article 2: Prohibition of acts of torture	25 - 27	8
Article 3: Prohibition of the return, refoulement or extradition of a person to another State where he might be in danger of being subjected to torture	28 - 31	8

CONTENTS (continued)

		Paragraphs	Page
Article 4:	Classification of acts of torture, attempts to commit torture and complicity in torture as crimes	32 - 39	9
Article 5:	Extension of Moroccan jurisdiction	40 - 45	11
Article 6:	Arrest and detention of any person suspected of having committed an act of torture	46 - 47	12
Article 7:	Trial or extradition of any person suspected of an act of torture	48 - 51	12
Article 8:	Classification of acts of torture as crimes for the purposes of extradition treaties	52	12
Article 9:	Mutual legal assistance between States parties in any proceedings relating to acts of torture	53	13
Article 10:	Education and information regarding the prohibition against torture	54 - 55	13
Article 11:	Measures to prevent acts of torture during interrogation, detention and imprisonment	56 - 65	13
Article 12:	Investigation into the commission of an act of torture	66 - 70	15
Article 13:	Right of victims to lodge complaints with the competent authorities	71 - 72	16
Article 14:	Right of victims to fair compensation	73	16
Article 15:	Value of statements obtained under torture	74 - 78	16
Article 16:	Prohibition of other cruel, inhuman or degrading treatment or punishment	79	17
Conclusion		80	17

Introduction

1. In the past three years, human rights have, thanks to the determination of His Majesty the King, been consolidated on an institutional basis by the establishment of the Human Rights Advisory Council and were solemnly consecrated by the 1992 revision of the Constitution, whose preamble states that the Kingdom of Morocco "reaffirms its commitment to the universally recognized human rights".

2. A new phase has now begun with the establishment of the Ministry of Human Rights, which, in the words of His Majesty the King, is a response to "one of Morocco's essential needs" and which henceforth institutionalizes the observance, protection and promotion of human rights as part of Government policy. The task of this new Government department is defined in accordance with this political resolve, whereby Morocco is firmly committed to greater respect for individuals and the continuing consolidation of the rule of law.

I. INFORMATION OF A GENERAL NATURE

A. Constitutional provisions

3. The preamble to the 1992 Moroccan Constitution states that the Kingdom of Morocco adheres to the principles, rights and obligations deriving from the charters of the international organizations of which it is a member and "reaffirms its commitment to the universally recognized human rights".

4. Although the Constitution does not contain a provision explicitly prohibiting torture, such a prohibition derives directly from article 10, which states that: "No one shall be arrested, detained or punished except under the circumstances and procedures provided for by law". The principle that offences and penalties must be prescribed by law is thus clearly stated and the broad wording of article 10 covers the conduct of criminal proceedings; accordingly, no one may be deprived of his liberty except in the circumstances and manner prescribed by law. Article 10 also states that: "The home shall be inviolable. Searches or checks may take place only under the conditions and terms prescribed by law".

5. For the first time in Morocco, article 40 of the Constitution authorizes the establishment of fact-finding committees in the Chamber of Representatives "to gather information on specific matters and submit their conclusions to the Chamber of Representatives". As is well known, fact-finding committees are widely used in the human rights fields; they will be able to investigate any human rights violations.

B. International conventions and treaties

6. On 21 June 1993, Morocco ratified the following United Nations conventions:

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

The Convention on the Elimination of All Forms of Discrimination against Women;

The Convention on the Rights of the Child.

C. The authorities concerned

7. The authorities with jurisdiction over matters covered by the Convention are the judicial authorities and the police and the gendarmerie which are assigned responsibility for criminal investigations by the Code of Penal Procedure. The activities of these authorities are circumscribed by a legal framework which determines their scope and limits: the 1962 Penal Code and the 1959 Code of Penal Procedure. It should be mentioned that the Code of Penal Procedure has recently been amended to strengthen the legal guarantees of suspects, which have been brought into line with the Convention, in particular by shortening the period of custody and introducing a medical examination when custody ends.

8. In the context of their criminal investigation functions, police and gendarmerie personnel are required to comply with the procedural rules for investigations laid down by the Code of Penal Procedure. They are thus subject to monitoring by the judicial authorities. They are also required as a general rule to abide by the specific regulations of the force to which they belong.

9. Article 55 of the Dahir of 14 January 1958 on the Moroccan Gendarmerie stipulates that "Any act by the gendarmerie that hampers citizens in the exercise of their individual freedom is an abuse of authority". It also states that "brigade commanders and gendarmes who, in the exercise of their functions, commit abuses of authority or impair the exercise of the freedoms recognized by law shall be liable to disciplinary penalties, regardless of any judicial proceedings that may be taken against them". Article 58 of the Dahir provides that "Any officer, brigade commander or gendarme who, in violation of this provision, issues, signs or carries out an order or has an order carried out to arrest an individual or actually arrests him shall be punished as guilty of arbitrary detention".

10. The desire to prevent exactions and abuses of authority is reflected in the training of officers and efforts to increase their awareness of human rights issues.

D. Disciplinary measures and measures to increase awareness

1. Gendarmerie Royale personnel

11. Lectures and refresher training courses are organized at various levels to enable criminal investigation police officers to improve their knowledge of respect for human rights, law enforcement and the conditions in which judicial decisions are to be executed. Brigade commanders attend periodic lectures

given by officials of, inter alia, the Ministry of Justice and the International Red Cross.

12. Gendarmerie Royale personnel are provided with documentation that enables them to acquaint themselves with the human rights philosophy, to keep abreast of amendments to basic documents, particularly in the field of penal procedure, and to be fully aware of the limits to their activities as protectors of the rights of citizens and as law enforcement officials responsible for ensuring security. In addition to this training, the Commander of the Gendarmerie Royale draws the attention of his officers to their rights and duties, informs them, for educational and deterrent purposes, of any incidents that have occurred in Gendarmerie units in order to prevent other mistakes from being made and describes the penalties to which they are liable if, in the exercise of their functions, they are involved in ill-treatment, arbitrary arrests, abuses of authority or inhuman treatment that is an affront to the dignity of persons held in custody.

13. In conjunction with these preventive measures and personnel training and awareness programmes, the Gendarmerie Royale has instructed its inspection and monitoring office severely to punish any gendarme who exceeds his authority or engages in misconduct incompatible with his functions as a law enforcement official. The office also receives complaints from citizens against gendarmes and systematically initiates investigations.

14. As far as penalties are concerned, the Gendarmerie Royale has dismissed 1,456 gendarmes since 1974, 775 of whom were tried for professional misconduct and 681 discharged from the army by the disciplinary commission (prohibited from re-enlisting, obliged to take compulsory retirement, having their contracts terminated). The gendarmes concerned were guilty of serious professional misconduct (misconduct, repeated punishments and warnings, etc.).

15. Of the gendarmes brought to trial, 319 had committed the following offences against the dignity of citizens or property:

Abuse of authority	: 10
Abduction	: 2
Ill-treatment	: 6
Invasion of privacy	: 11
Corruption	: 92
Murder	: 4
Fraud	: 11
Forgery and use of forgeries	: 11
Theft	: 42
Assault and battery	: 12
Armed threat	: 2
Drunkenness disorderly behaviour	: 64
Offences against morality (sexual perversion involving violence, indecent assault, corruption of minors, abduction of a married woman, adultery)	: 38
False accusation	: 1
Insulting a superior	: 3
Insubordination	: 10

These gendarmes were sentenced to terms of 2 months' to 20 years' imprisonment.

16. During the same period, 19 other gendarmes, including 2 officers, were arrested for drug trafficking, brought to trial and sentenced to six months' to eight years' rigorous imprisonment.

17. Since 1974, 30 persons have committed suicide while in custody in Gendarmerie Royale premises. Thorough judicial investigations were made into these cases and led to harsh penalties against the personnel responsible when responsibility was established.

2. Officials of the Criminal Investigation Department

18. On recruitment, police officers of all ranks are enrolled in special schools where they receive valuable training which covers, inter alia, civil and human rights.

19. The Office of the Director-General attaches particular importance to this teaching as it believes that instilling police officers with the fundamental principles of civil and human rights is a safeguard against any form of arbitrary action. Whatever their rank or function, police officers entering police college are given an induction course entitled "Introduction to moral and professional life".

20. With regard to civil and human rights in particular, the training programme focuses on "civil rights and the right of arrest". It covers, inter alia, the following subjects: general theory of fundamental freedoms and human rights, constitutional protection of human rights, legal protection, code of civil rights, collective rights, the right of arrest and the rights of detainees. In addition to these subjects, police colleges have for many years adopted the principle of integrated instruction which is based on know-how and conduct and applies to all administrative and criminal investigation police subject-matters.

21. During their training, police officers acquire not only legal and technical skills, but also learn how to behave accordingly, i.e. how to deal with the public on the basis of sociological and psychological principles while constantly bearing in mind the principles of civil and human rights in order to avoid any violation of individual rights and any abuse of authority.

22. The purpose of the training given in police colleges is to ensure that police officers always operate within the bounds of the law and with a keen sense of responsibility. Police officers are subject:

(a) At the regional level: to direct monitoring by the head of the Criminal Investigation Department, the Governor of the province and the judicial authorities (Prosecutor's Office); and

(b) At the national level: to monitoring by the Director-General of the Criminal Investigation Department through the Office of the Inspector-General.

During his career, a police officer who engages in personal or professional misconduct is thus liable to administrative penalties (disciplinary board) or judicial penalties (courts).

23. Like any other administrative department, the Office of the Director-General of the Criminal Investigation Department has an Office of the Inspector-General, which, in addition to its basic function of monitoring police operations, carries out investigations into the conduct of police officers in their dealings with the public and, in particular, into the grounds for complaints by citizens relating to any illegal acts or abuses of authority. If appropriate, the Office of the Inspector-General suggests disciplinary measures or, if the acts complained of constitute a criminal offence, the appearance of the officials concerned before the competent court.

24. Statistics on disciplinary measures taken against police officers in 1993, not including criminal convictions, were as follows:

(a) Dismissal - 30

Unlawful violence and abuse of authority:	3
Violence, abuse of authority and drunkenness:	5
Indecent assault and attempted murder:	3
Trading of favours and invasion of privacy:	5
Unreasonable and abusive use of authority, threats using a firearm and arbitrary arrest:	3
Infringement of freedom of movement, abuse of authority and arbitrary arrest:	3
Assault and battery and damaging private property, drunkenness:	5
Abduction of a minor, abduction followed by premeditated murder:	3

(b) Compulsory retirements - 4

Fraud, abuse of authority and arbitrary arrest:	1
Trading of favours and corruption of a married woman:	1

Complicity in fraud, breaking and entering, arbitrary arrest and acts of violence: 1

Infringement of individual freedom of movement, abuse of authority and use of intimidation followed by extortion: 1

II. INFORMATION RELATING TO ARTICLES 2 TO 16 OF THE CONVENTION

Article 2: Prohibition of acts of torture

25. The constitutional basis for this prohibition derives from article 10 of the Constitution, which states that: "No one shall be arrested, detained or punished except under the circumstances and procedures provided for by law", thereby establishing the principle of the prohibition of torture by making arrests, detention and penalties subject to the Penal Code and the Code of Penal Procedure.

26. The Penal Code provides for various penalties for violations of individual physical integrity and for harsher penalties if the violence is committed by officials or representatives of the Government (see art. 4).

27. The Code of Penal Procedure determines how the proceedings are to be conducted, from the preliminary police investigation until the final sentence. It organizes the protection of the suspect in terms of respect for his rights and his physical integrity (see art. 11).

Article 3: Prohibition of the return, refoulement or extradition of a person to another State where he might be in danger of being subjected to torture

28. According to the principle of the territoriality of criminal law (see art. 5), aliens and stateless persons in the territory of the Kingdom are subject to Moroccan criminal law on the same terms as nationals. Accordingly, any criminal, regardless of his nationality, who commits an offence in Moroccan territory is tried in Morocco in accordance with domestic law and serves his sentence there.

Refoulement, expulsion

29. The entry of aliens into Morocco and their right to settle and reside there are subject to the issue of a permit by the Office of the Director-General of the Criminal Investigation Department in accordance with the legislative and administrative provisions in force. If the applicant does not satisfy the requirements, he may:

(a) Have his application turned down or his permit withdrawn by decision of the Director-General of the Criminal Investigation Department;

(b) Be returned by decision of the Governor;

(c) Be expelled by a decision taken either by the Director-General of the Criminal Investigation Department or by the Minister of the Interior.

30. Whatever measure is adopted, it is taken by administrative decision against which the alien concerned may apply for a discretionary remedy, make a hierarchical appeal to the Ministry of the Interior or apply to the competent administrative court for a remedy of annulment.

Extradition

31. Extradition is provided for by the Dahir of 8 November 1958 on the extradition of aliens. Under article 5 of the Dahir, extradition is not granted "if the crime or offence in respect of which the application is made is of a political nature or if the circumstances indicate that the extradition is politically motivated". Article 5 also states that: "Acts committed during an insurrection or a civil war by one of the parties engaged in the struggle and in the interests of his cause shall give rise to extradition only if they constitute acts of heinous barbarism or vandalism prohibited by the laws of war and only when the civil war has ended".

Article 4: Classification of acts of torture, attempts to commit torture and complicity in torture as crimes

32. Two articles of the Penal Code specifically refer to torture:

(a) In connection with the kidnapping, detention or abduction of persons by individuals: when the person kidnapped, arrested, detained or abducted is subjected to physical torture, the punishment is harsher and the penalty to which the criminal is liable is death (Penal Code, art. 438);

(b) Anyone who engages in acts of torture or barbarism to commit an act classified as a crime is also liable to the death penalty (Penal Code, art. 399).

33. In other cases, the punishment of torture is guaranteed by articles 401 and 403, which classify assault and battery as crimes. These articles punish assault and battery in proportion to the injury suffered by the victim:

(a) Correctional penalties - articles 400 and 401:

(i) If the act entails less than 20 days' unfitness for work, the penalty is one month to one year of imprisonment and a fine; if the act was premeditated, committed with felonious intent or involved the use of a weapon, the term of imprisonment is from 6 months to two years and the fine is increased;

(ii) If the period of unfitness for work is more than 20 days, the penalty is one to three years' imprisonment and a fine; if the act involved premeditation, felonious intent or a weapon, the term of imprisonment is from two to five years;

(b) Criminal penalties - articles 402 and 403:

(i) If the assault, battery or other acts of violence led to mutilation, amputation or loss of the use of a member, blindness, loss of an eye or any other permanent disability, the penalty is five to ten years' imprisonment; if the act involved premeditation, felonious intent or a weapon, the term of imprisonment is 10 to 20 years;

(ii) If the assault, battery or other acts of violence were inflicted without intent to kill, but nevertheless caused death, the penalty is 10 to 20 years' imprisonment; if premeditation, felonious intent or a weapon was involved, the penalty is life imprisonment.

34. It may be seen that premeditation, felonious intent and the use of a weapon are always aggravating circumstances and that the Penal Code gives a very broad definition of a weapon: "Any firearm, explosive, mechanism, pointed, blunt or sharp instrument or object" (Penal Code, art. 303).

35. If the violence is committed by a judge, a public official or a law enforcement official, the penalties are increased in accordance with article 231 of the Penal Code, which provides that: "Any judge, public official or law enforcement official who, without legitimate grounds, uses or orders the use of violence against persons in the exercise of or in connection with his functions shall be punished for such violence according to its seriousness, pursuant to the provisions of articles 401 and 403; however, the relevant penalty shall be increased as follows:

(a) In the case of a minor or correctional offence, the penalty shall be double that laid down for the offence;

(b) In the case of a crime punishable by a prison sentence, the applicable penalty shall be life imprisonment.

It should be emphasized that the Code punishes both those who use violence and those who order its use.

Attempt

36. The Penal Code defines attempt as the commencement of the commission of the offence or unambiguous acts which are directly intended to commit the offence and which were interrupted or failed to achieve their aim only because of circumstances beyond the offender's control (Penal Code, arts. 114 et seq).

37. Attempt is punishable in the same way as the completed act. This is always true in the case of crimes; in the case of minor offences, it is so by virtue of a special provision of the law.

38. Attempted assault and battery is technically difficult, if not impossible, to imagine as the Code now stands. Assault, battery and other acts of violence are punishable on the basis of the injury suffered by the victim. If the act was only an attempt, there was no injury and it is thus impossible to determine which penalty would have been applied to the completed offence and, consequently, which penalty applies to attempt.

Complicity

39. The punishment of complicity does not give rise to any problem. however, as article 130 of the Penal Code stipulates that: "An accessory to a crime or an offence shall be liable to the penalty that applies to that crime or offence".

Article 5: Extension of Moroccan jurisdiction

Offences committed in Morocco

40. The principle of the territoriality of criminal law is established by article 10 of the Penal Code: "All persons in the territory of the Kingdom, whether nationals, aliens or stateless persons, shall be subject to Moroccan criminal law, except as otherwise provided by internal public law or by international law", while article 748 of the Code of Penal Procedure states that: "Moroccan courts shall be competent to try any offence committed in Moroccan territory, regardless of the offender's nationality".

41. The commission of the principal offence in Morocco gives Moroccan courts jurisdiction, even if some constituent elements of the offence were committed abroad and whatever the nationality of the co-perpetrators. Jurisdiction to try the principal offence extends to all acts of complicity and concealment, even if they are committed outside the Kingdom by aliens.

42. Article 11 of the Penal Code provides that Moroccan ships and aircraft are regarded as part of Moroccan territory, wherever they may be, except as otherwise provided by international law. Article 749 of the Code of Penal Procedure extends the jurisdiction of Moroccan courts to crimes and offences committed in Moroccan seaports on board foreign merchant vessels.

Offences committed abroad

43. Articles 751 et seq. of the Code of Penal Procedure stipulate that any act classified as a crime by Moroccan law or as an offence by Moroccan and foreign law and committed abroad by a Moroccan may be prosecuted and tried in Morocco. However, prosecution and trial may take place only when the offender has returned to Morocco and cannot prove that he has irrevocably been tried abroad and, if he has been convicted, that he has served his sentence, that his sentence is time-barred or that he has been pardoned.

44. In the case of an offence against a private individual, moreover, proceedings may be instituted only on the motion of the Prosecutor's Office acting on a complaint by the individual concerned or on charges filed by the authorities of the country in which the offence was committed.

45. Offences committed by an alien outside Morocco come under the jurisdiction of Moroccan courts and Moroccan law only (Code of Penal Procedure, art. 755) in the case of a crime against Moroccan State security and in the case of the crime of counterfeiting coins or notes that are legal tender in Morocco. With the exception of these two cases and as the Code of Penal Procedure now stands, an alien who has committed an offence abroad may not be tried by the Moroccan courts.

Article 6: Arrest and detention of any person suspected of having committed an act of torture

46. If an act of torture of which a person is suspected was committed in Moroccan territory and jurisdiction lies with Moroccan courts and law, the rules of the Code of Penal Procedure will be applicable (custody, pre-trial detention) and the suspect will be entitled to the guarantees laid down by the Code. This is also the case if the offence was committed abroad by a Moroccan, provided that it is classified as a crime by Moroccan law or as an offence both by Moroccan law and that of the country where it was committed. However, if the act of torture was committed abroad by an alien, the suspect can be arrested and detained only if a request for extradition has been made by the Government of the State where the act was committed.

47. Under the Dahir of 5 November 1958 on the extradition of aliens, once the request has been transmitted and deemed acceptable by the Ministry of Justice, the alien is arrested, questioned as to his identity, informed of the grounds for his arrest and transferred without delay to Rabat prison, where he is held while the extradition proceedings follow their course.

Article 7: Trial or extradition of any person suspected of an act of torture

48. When a person comes under Moroccan jurisdiction (see art. 5), he is prosecuted and tried according to the rules laid down by the Penal Code and the Code of Penal Procedure. The law in no way discriminates, regardless of who the criminal is and of his nationality.

49. The rules of the Code of Penal Procedure are thus applied in all cases and the suspect is entitled to all legal guarantees during the police investigation, the examination proceedings and the trial: the presumption of innocence, the right to be assisted by a lawyer, to have his family informed as soon as he is taken into custody, etc.

50. Examination proceedings are compulsory for the most serious crimes (those which are punishable by death or life imprisonment). The evidence is assessed in the same way, whatever the offence.

51. If the offence was committed abroad by an alien, extradition may be granted at the request of the Government of the State where the offence was committed, in accordance with the provisions of the Dahir of 8 November 1958 on the extradition of aliens.

Article 8: Classification of acts of torture as crimes for the purposes of extradition treaties

52. Although the Dahir of 8 November 1958 does not refer explicitly to acts of torture, it defines acts which may give rise to extradition broadly enough to include all acts of torture (art. 4):

(a) All acts punishable by criminal penalties under the law of the requesting State;

(b) Acts punishable by correctional penalties under the law of the requesting State, i.e. when the maximum penalty under that law is two years or more or, in the case of a convicted person, when the sentence handed down by the requesting State's court is two months' imprisonment or more. The same article also requires the offence to be criminal or correctional under Moroccan law; it allows extradition for attempt or complicity, provided that they are punishable both by the law of the requesting State and by that of the State of which the request is made.

Article 9: Mutual legal assistance between States parties in any proceedings relating to acts of torture

53. Morocco has signed several bilateral conventions on mutual judicial assistance and extradition. We may mention the following:

(a) The Franco-Moroccan Agreement on Mutual Judicial Assistance, Enforcement of Judgements and Extradition, dated 5 October 1957, published in the Bulletin Officiel of 10 January 1958;

(b) The Agreement between the Kingdom of Morocco and the Kingdom of Belgium on Extradition and Mutual Judicial Assistance in Criminal Matters, dated 27 February 1959 (ratified on 19 May 1960);

(c) The Agreement between the Kingdom of Morocco and the Republic of Senegal on Judicial Cooperation, Enforcement of Judgements and Extradition, dated 19 May 1968.

Article 10: Education and information regarding the prohibition against torture

54. It has been Morocco's policy to incorporate human rights into the teaching and training of officials in the executive and judicial branches in order to increase awareness of the need for respect for human rights.

55. The various international legal human rights instruments to which Morocco is a party (including the Convention against Torture) are currently taught in the following institutions and establishments: the National Institute of Judicial Studies, the Training College for Senior Officials (where senior officials in the Ministry of the Interior are trained), the Royal Police College, the Staff College of the Gendarmerie Royale Colleges and the Higher College for Practical Studies of the Gendarmerie Royale.

Article 11: Measures to prevent acts of torture during interrogation, detention and imprisonment

Monitoring of the duration and conduct of police custody

56. The Code of Penal Procedure limits police custody to 48 hours; if there is serious and corroborating evidence against the suspect, the period may be extended by 24 hours by written authorization of the prosecutor (art. 68). These periods may be doubled in the case of offences against State security.

57. The Code makes it mandatory to indicate the date and time police custody begins; the person held in custody must sign or his refusal to do so must be indicated (art. 69).

58. The criminal investigation officer is required to inform the family of the person held in police custody. He is required to submit a daily list of persons held in police custody during the past 24 hours to the Crown Prosecutor and to the Crown Attorney-General (art. 69).

59. If on completion of the period of custody, the person is handed over to the judicial authorities, the Crown Prosecutor or the examining magistrate (depending on the seriousness of the offence) is required to present the accused for a medical examination if he is requested to do so or on his own initiative if he has any reason to believe a medical examination is necessary (arts. 76 and 127).

60. As soon as the person is handed over to the judicial authorities, he receives the assistance of a lawyer.

Monitoring of the activity of criminal investigation officers

61. The criminal investigation police is subject to two types of monitoring:

(a) Monitoring by the prosecution service: The criminal investigation is carried out under the supervision of the Crown Prosecutor by the judges, officers, officials and agents designated by the Code of Penal Procedure (art. 16). In each appeal court district, it is under the supervision of the head of the prosecution service (art. 17). This means that the police are required to inform the Prosecutor of any offence that is brought to their attention (arts. 59 and 79), to perform such acts as the Prosecutor's Office requires of them (arts. 73 and 80) and to obtain the agreement of the Prosecutor's Office for certain acts, such as the extension of police custody;

(b) Monitoring by the criminal chamber of the appeal court (arts. 17 and 244 et seq.): The criminal chamber of the appeal court supervises the criminal investigation officers operating in that capacity. When it finds that a criminal investigation officer has committed a fault in the exercise of his functions, it may, without prejudice to any possible disciplinary proceedings by his superiors, inform him of its findings, suspend him or dismiss him definitively from his functions. If it considers that he has committed a criminal offence, it refers the case to the prosecution service for the purpose of prosecution (art. 248).

Monitoring of the examination proceedings

62. The president of the criminal chamber has the authority to monitor and supervise proceedings instituted in the appeal court. He monitors in particular, the lawfulness of any pre-trial detention and, in this respect, may visit prisons under his jurisdiction to inspect them and check on the situation of an accused person in detention. If he finds that there are no grounds for the person to be detained, he makes the necessary recommendations to the examining magistrate (Code of Penal Procedure, arts. 241 to 243).

63. "Detainees are visited at least once every three months by the Crown Prosecutor and the examining magistrate. These officials monitor the lawfulness of detentions and ensure that the registers are properly kept" (Code of Penal Procedure, art. 660).

Monitoring of the situation of convicted prisoners serving their sentence

64. In each province and prefecture, a committee which is presided by the Governor or his representative and is composed of judges, Crown Prosecutors, a doctor and members appointed by the Ministry of Justice is responsible for guaranteeing the safety and conditions of detention of detainees. To this end, it is authorized to visit prisons and to draw attention to any abuses which are to be halted and of which it informs the Minister of Justice (Code of Penal Procedure, arts. 661 and 662).

65. It should also be mentioned that prisons are visited at random by the Minister of Justice and the Minister for Human Rights.

Article 12: Investigation into the commission of an act of torture

66. The Crown Prosecutor is required to present accused persons for medical examination by a forensic physician if requested to do so or if he finds that there are grounds for such an examination (Code of Penal Procedure, art. 76); the examining magistrate is under the same obligation (Code of Penal Procedure, art. 127).

67. In addition, "Professional misconduct by criminal investigation officers in the exercise of their functions is brought before the criminal chamber either by the head of the prosecution service or by its President. The criminal chamber may act on its own motion when examining any case referred to it" (Code of Penal Procedure, art. 245).

68. "Once a case has been referred to it, it conducts an investigation" (Code of Penal Procedure, art. 246). When submissions have been made by the head of the prosecution service, it hears the criminal investigation officer against whom charges have been brought. He is given an opportunity to take cognizance of his file and may be assisted by a lawyer. If the facts are confirmed, disciplinary proceedings may be brought against him, he may be suspended or he may be dismissed from the criminal investigation police and have to face criminal charges (see art. 11, para. 61 above).

69. Articles 266 to 270 of the Code of Penal Procedure provide for exceptions to the normal rules of jurisdiction for the investigation and trial of offences of which executive and judicial officials are accused; the aim is to prevent investigations and trial from being too accommodating or lenient.

70. If the suspect or accused is a judge of the court of first instance or a communal or district court, a commander (pacha) or a chief superintendent (super-caïd) or a superintendent (caïd) or a criminal investigation police officer acting in the exercise of his functions, the first president of the appeal court, at the request of the Prosecutor's Office or the claimant for criminal indemnification, orders the case to be heard, if appropriate, by an

examining magistrate chosen from outside the district in which the accused exercises his functions (arts. 269 and 270, para. 1).

Article 13: The right of victims to lodge complaints with the competent authorities

If the victim has been released

71. Depending on the circumstances, two remedies are available to a victim to have the perpetrator of the offence prosecuted:

(a) A direct summons, which involves summoning the accused directly to appear before the trial court without going through the investigation stage. The Code of Penal Procedure defines the scope of and regulations relating to direct summonses (arts. 366 to 370, 393, 394 and 419);

(b) Lodging a complaint and bringing a suit for criminal indemnification, whereby the victim brings the case before the examining magistrate, informs him of the injurious acts and claims damages for the injury suffered, thus setting in motion a public right of action. In this connection, the appropriate procedure is determined by the provisions of the Code of Penal Procedure. It should also be noted that a person who claims to have been injured as a result of an offence may bring criminal indemnification proceedings before the trial court when the public right of action has been set in motion by the Prosecutor's Office; the requirements are set out in articles 333 to 337 of the Code of Penal Procedure.

If the victim is still detained

72. If the victim is still detained after being tortured, he may request the medical examination provided for by articles 76 and 127 of the Code of Penal Procedure (see art. 11, para. 59 above). When ill-treatment has been proved, the Prosecutor's Office refers the case to the criminal chamber of the appeal court.

Article 14: Right of victims to fair compensation

73. When ill-treatment has been proved, the victim of an act of torture is entitled to compensation in proportion to the injury suffered on civil liability terms. The same is true of his heirs in the event of his death (art. 77 et seq. of the Dahir containing the Code of Obligations and Contracts; Moroccan case law is also well established along these lines).

Article 15: Value of statements obtained under torture

74. According to the Code of Penal Procedure, offences may be proved by any type of evidence and the judge decides on the basis of his personal conviction (art. 288).

75. Article 289 provides that the judge may base his decision only on evidence produced in court and discussed orally before him.

76. The judge is therefore not bound by a statement (confession or testimony), even if it is made in court, if he believes that other evidence casts doubt on its truthfulness.

77. A fortiori, the judge is not obliged to take account of a confession made out of court, for example, a confession set out in a report. Records may, of course, be submitted as evidence, although their value varies: where crimes are concerned, they are simply information (art. 293) and, in the case of ordinary and minor offences, they are accepted as evidence in the absence of proof to the contrary (art. 291).

78. However, the Supreme Court has clearly established the principle that reports "confirm that a statement was made, but not that it is true", thereby allowing the judge to dismiss a confession or statement set out in a report regardless of its value as evidence.

Article 16: Prohibition of other cruel, inhuman or degrading treatment or punishment

79. In this connection, attention may be drawn to the following:

(a) Article 225 of the Penal Code: "Any judge, public official, agent or representative of the authorities or of the forces of law and order who orders or commits any arbitrary act which is a violation either of individual liberty or the civil rights of one or more citizens shall be punished by civic dishonour ...";

(b) Article 436 provides for penalties of up to 30 years' imprisonment for "anyone who abducts, arrests, detains or kidnaps any person without an order from the established authorities and in circumstances in which the law does not permit or order individuals to be held". Persons guilty of the offence are liable to the death penalty "if the person who is abducted, detained or kidnapped has been subjected to physical torture" (art. 438);

(c) Attacks on a person's honour or reputation are punishable under articles 442 to 448 of the Penal Code;

(d) It should also be mentioned that Morocco has ratified, inter alia, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (dated 7 September 1956), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, dated 1950 (Dahir No. 1.74,12 of 2 August 1974), International Labour Organisation Convention (No. 29) concerning Forced Labour (Dahir No. 1,57,294 of 16 December 1957) and Convention No. 105 concerning the Abolition of Forced Labour (Royal Decree No. 097-66, dated 22 October 1966).

Conclusion

80. This brief summary of the constitutional, legislative and regulatory provisions for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment allows the following conclusions to be drawn:

(a) The Kingdom of Morocco is very concerned about all aspects of respect for human rights and is working actively to ensure the implementation of the conventions designed to safeguard these rights;

(b) Like many developing countries, the Kingdom of Morocco faces considerable obstacles in implementing a policy designed to enable all citizens, without discrimination, fully to enjoy their rights;

(c) Under the wise guidance of His Majesty the King, the Kingdom of Morocco spares no effort to assume its obligations, one of which is to promote the advancement and well-being of all Moroccans.

- - - - -